

SECRETDD/S 62-4743
OSA-0860-62**MEMORANDUM FOR: Acting Director of Central Intelligence****SUBJECT : Reimbursement for Legal Services Incurred
by Francis Gary Powers**

1. This memorandum contains a recommendation for your approval. Such recommendation is contained in paragraph five.

2. Francis Gary Powers, a special contract employee of this Agency, after a certain stage in his debriefings, sought Agency approval to publish a book concerning his experiences in the Soviet Union. He believed that there would be no Agency objection to this because it was his understanding that the Director of CIA had advised that such writing would be unwise only until such time as the Agency completed its study of the 1 May incident.

3. Acting upon that belief, he sought the approval by the Agency for the arrangements necessary for the writing and publishing of such a book. He was told that the Agency would interpose no objection to such a book or article, provided that Mr. Powers would submit it to the Agency for clearance prior to publication. This approval was authorized by proper Agency officials. In order that the Agency could be assured that its interests would be protected in his dealings with publishers, Mr. Powers was given a suggested list of attorneys cleared by the Agency. He retained one such attorney to handle negotiations concerning publication.

4. Subsequently, after a further review of the entire matter, the Director decided that it would be unwise for a book to be published at this time by Mr. Powers concerning the 1 May incident and his imprisonment. Based on this decision, Mr. Powers was dissuaded from continuing his efforts to publish. From the time of Mr. Powers' authorization to go ahead he had incurred expenses for services in the amount of \$1,022.28. Because Mr. Powers had acted in good faith based on authorization by the Agency, we believe that Mr. Powers should not be held personally responsible for such legal fees, but rather should be reimbursed by the Agency.

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5. Therefore, it is recommended that you approve the reimbursement of Mr. Powers in the amount of \$1,022.28 for legal fees so incurred. Funds will be available within the OSA operational program to meet this unprogrammed expense.

JAMES A. CUNNINGHAM, JR.
Acting Assistant Director
(Special Activities)

Attachment as stated

CONCUR:

s/ 2 October 1962
LAWRENCE R. HOUSTON
General Counsel (see note on cover sheet)

L. K. WHITE
Deputy Director (Support)

Recommendation in para. 5. APPROVED:

[(Signed)] Marshall S. Carter 13 NOV 1962
Marshall S. Carter
Lieutenant General, USA
Deputy ~~Acting~~ Director

Distribution:

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MEMORANDUM FOR: General Carter

1. In a note on an earlier cover sheet you asked what steps were being taken to collect from Agency culprits who fail to read or ignore our Headquarters regulations.

2. It is not uncommon for employees to receive over-payments of one sort or another. These are normally readily identified on audit, and in most cases recovery is a simple matter. If the employee does not respond to the request for repayment, there is authority for withholding from the employee's pay. If he is terminating, his retirement can be withheld and is normally sufficient to make up for the deficiency. If he has terminated and the retirement has been paid, the case can be referred to GAO and Justice for collection. On the more difficult cases, particularly where there has been a deliberate defalcation and security is involved, the Inspector General and this Office work closely on measures to effect recovery. Currently, the DD/P, the IG, and this Office have been working out procedures to make both detection and collection action more effective.

STAT 3. To show that we do not give up easily, in one case [redacted] over ten years old we finally went to court despite security and cover problems, got a judgment, collected in part, and are still enlisting GAO's help to collect the rest in spite of some congressional objection. We have even made demands on a congressman who did not account properly for a travel advance in OSS days and eventually turned his case over to GAO.

STAT

[redacted]
Lawrence R. Houston

This file has been reviewed on 22 July by
Operations Staff, in connection with the Senate Select Committee
investigations. No material pertinent to these investigations was discovered
in this file.

STAT

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ROUTING AND RECORD SHEET

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COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

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15.

The Executive Director queried whether the attached proposal to pay certain legal fees for Powers is consistent with rulings we have given preventing reimbursement for expenditures made as a result of administrative error or incorrect advice by Agency officials. In those cases we have ruled on in the past there is usually a statutory or regulatory prohibition on the expenditure of funds which is controlling on the individual despite what he might have been told by another Government employee. There was no such legal prohibition in connection with the expenses incurred by Powers in negotiating with his publishers. He was then requested not to pursue publication and acquiesced, and it would appear to be fair to compensate him for his loss. The nearest parallel that comes to mind is the case where employees were ordered overseas, expended money to prepare for their journey only to have their orders canceled. We have had to rule against reimbursement because of specific Comptroller General rulings in such cases. We have felt such rulings to be somewhat harsh, and we feel there may be some relief from them in the future, but as the Comptroller General has pointed out at least these

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individuals have acquired something
of continuing value as a result of
their expenditures whereas there is
no resale value or continuing
utility in the past legal work
performed in connection with a
canceled project.

5/

L.B. Houston